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SENATE BILL 535

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO MINIMUM WAGES; AMENDING THE MINIMUM WAGE ACT TO PROHIBIT LOCAL GOVERNMENTS FROM REQUIRING A MINIMUM WAGE THAT EXCEEDS THE FEDERAL MINIMUM WAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 50-4-22 NMSA 1978 (being Laws 1955, Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES.--

A. An employer, except as provided in Section 50-4-21 NMSA 1978, shall pay the minimum wage rate of five dollars fifteen cents (\$5.15) an hour, except that an employer furnishing food, utilities, supplies or housing to an employee who is engaged in agriculture may deduct the reasonable value of such furnished items from any wages due to the employee.

B. All employees covered by Subsection A of this

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1 section who customarily and regularly receive more than thirty
2 dollars (\$30.00) a month in tips shall be paid a minimum hourly
3 wage of two dollars twelve and one-half cents (\$2.125). The
4 employer may consider tips as part of wages, but such a wage
5 credit shall not exceed fifty percent of the minimum wage. All
6 tips received by such employees shall be retained by the
7 employee, except that nothing in this section shall prohibit
8 the pooling of tips among employees.

9 C. An employee covered by the provisions of
10 Subsection A of this section shall not be required to work more
11 than forty hours in any week of seven days, unless ~~[he]~~ the
12 employee is paid one and one-half times ~~[his]~~ the employee's
13 regular hourly rate of pay for all hours worked in excess of
14 forty hours. For an employee who is paid a fixed salary for
15 fluctuating hours and who is employed by an employer a majority
16 of whose business in New Mexico consists of providing
17 investigative services to the federal government, the hourly
18 rate may be calculated in accordance with the provisions of the
19 federal Fair Labor Standards Act of 1938 and the regulations
20 pursuant to that act; provided that in no case shall the hourly
21 rate be less than the federal minimum wage.

22 D. No political subdivision of the state shall
23 require a minimum wage that exceeds the federal minimum wage
24 prescribed in 29 USCA 206."